



FEB 15 2002

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In re Application of PACHOLIK et al
U.S. Application No.: 09/913,938
Int. Application No.: PCT/SE00/00066
Int. Filing Date: 14 January 2000
Priority Date: 02 March 1999
Attorney Docket No.: 003300-817
For: COPPER RECOVERY PROCESS

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DECISION

This is in response to the papers filed 07 February 2002, including a copy of a declaration purportedly filed on 02 October 2001. The submission is being treated as a petition to treat the declaration as having been filed on 02 October 2001. No petition fee is due.

BACKGROUND

On 14 January 2000, applicants filed international application PCT/SE00/00066, which claimed priority of an earlier Sweden application filed 02 March 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 08 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 September 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 September 2001 (02 September 2001 was a Sunday preceding a Monday holiday).

On 20 August 2001, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 October 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 February 2002, applicants filed the present petition. The petition states that a declaration was filed on 02 October 2001. The petition further states that it is accompanied by a

copy of the declaration and a copy of a return postcard receipt which bears a USPTO date stamp of 02 October 2001.

DISCUSSION

MPEP 503 states, in relevant part,

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. . . . Each separate component should be specifically and properly itemized on the postcard.

In the present case, the copy of the return postcard receipt does not list a declaration in its itemized contents. Therefore, applicants are not entitled to the relief requested.

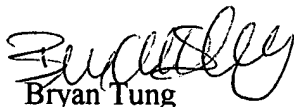
It is further noted that the declaration filed with the present petition is improper. Specifically, the declaration does not identify the specification to which it is directed as required by 37 CFR 1.497(a)(2).

CONCLUSION

For the reasons above, the present petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Applicants are reminded of the requirement to respond to the Notification of Missing Requirements mailed 15 October 2001.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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